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Attorneys for Defendant Krua Thai Group, Inc.
(sued erroneously herein as Krua Thai Restaurant)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CARMEN JOHN PERRI, an
individual,

Plaintiff,

v.

KRUA THAI RESTAURANT, a
business of unknown form; LILLIAN
SASSON, an individual and trustee
of THE LILLIAN SASSO TRUST,
U/T/A OF DECEMBER 13, 1990;
and DOES 1-10,

Defendants.

Case No. 2:18-cv-7407 CJC(SKx)

**DEFENDANT KRUA THAI
GROUP, INC.'S ANSWER AND
AFFIRMATIVE DEFENSES**

[DEMAND FOR JURY TRIAL]

Defendant Krua Thai Group, Inc. (sued erroneously herein as Krua Thai Restaurant)(hereinafter "KTGI"), by and through the undersigned counsel, hereby answers Plaintiff's Complaint, and admits, denies, and alleges as follows:

1. In answering Paragraph 1 of the Complaint, no allegations are asserted as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without sufficient knowledge or information to form a belief as to truthfulness of the allegations contained therein, and therefore denies same.

2. In answering Paragraph 2 of the Complaint, no allegations are asserted as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without

1 sufficient knowledge or information to form a belief as to truthfulness of the
2 allegations contained therein, and therefore denies same.

3 3. In answering Paragraph 3 of the Complaint, no allegations are asserted
4 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
5 sufficient knowledge or information to form a belief as to truthfulness of the
6 allegations contained therein, and therefore denies same. KTGI admits that it entered
7 into a lease agreement with an individual named Lillian Sasson for the property
8 located at 13130 Sherman Way, North Hollywood, CA 91605, which property is
9 operated by KTGI as a restaurant (hereinafter, the "Property").

10 4. In answering Paragraph 4 of the Complaint, no allegations are asserted
11 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
12 sufficient knowledge or information to form a belief as to truthfulness of the
13 allegations contained therein, and therefore denies same. KTGI admits that entered
14 into a lease agreement with an individual named Lillian Sasson for the Property.

15 5. KTGI admits that it owns, operates, and controlled the restaurant located
16 at the Property on August 14, 2018.

17 6. KTGI admits that it currently owns, operates, and controls the restaurant
18 located at the Property.

19 7. In answering Paragraph 7 of the Complaint, no allegations are asserted
20 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
21 sufficient knowledge or information to form a belief as to truthfulness of the
22 allegations contained therein, and therefore denies same.

23 8. In answering Paragraph 8 of the Complaint, no allegations are asserted
24 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
25 sufficient knowledge or information to form a belief as to truthfulness of the
26 allegations contained therein, and therefore denies same.

27 9. In answering Paragraph 9 of the Complaint, no allegations are asserted
28 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without

1 sufficient knowledge or information to form a belief as to truthfulness of the
2 allegations contained therein, and therefore denies same.

3 10. KTGI admits that venue is proper in this Court with respect to Plaintiff's
4 ADA claims against real property that is located in this district. The remaining
5 allegations in this Paragraph 10 are denied.

6 11. In answering Paragraph 11 of the Complaint, KTGI is without sufficient
7 knowledge or information to form a belief as to the truthfulness of the allegations
8 contained therein and, therefore, denies the same.

9 12. In answering Paragraph 12 of the Complaint, KTGI admits the
10 allegations contained therein.

11 13. In answering Paragraph 13 of the Complaint, KTGI admits the
12 allegations contained therein.

13 14. In answering Paragraph 14 of the Complaint, no allegations are asserted
14 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
15 sufficient knowledge or information to form a belief as to truthfulness of the
16 allegations contained therein, and therefore denies same. The Property is a shopping
17 center and the parking spaces are a common area available for use of patrons visiting
18 the multiple businesses located at the shopping center. KTGI denies that it owns,
19 controls, or maintains the parking lot, and therefore denies that it is responsible in any
20 way for parking space compliance with the ADA.

21 15. In answering Paragraph 15, KTGI is without sufficient knowledge or
22 information to form a belief as to truthfulness of the allegations contained therein as
23 to the sidewalks and curb ramps, and therefore denies same. The Property is a
24 shopping center and the sidewalks and curb ramps are common areas available for use
25 of patrons visiting the multiple businesses located at the shopping center. KTGI
26 denies that it owns, controls, or maintains the sidewalks or curb ramps, and therefore
27 denies that it is responsible in any way for the compliance of same with the ADA.
28 KTGI is without sufficient knowledge and information to form a belief as to the

1 truthfulness of the allegation as to the round door knob, as the location of the door
2 knob is not specified, and therefore denies same. KTGI is without sufficient
3 knowledge and information to form a belief as to the truthfulness of the allegation as
4 to the sink, as the location of the sink is not specified, and therefore denies same.
5 KTGI is without sufficient knowledge and information to form a belief as to the
6 truthfulness of the allegation as to the hand dryer, as the location of the hand dryer
7 is not specified, and therefore denies same. KTGI is without sufficient knowledge
8 and information to form a belief as to the truthfulness of the allegation as to the towel
9 dispenser, as the location of the towel dispenser is not specified, and therefore denies
10 same. KTGI is without sufficient knowledge and information to form a belief as to
11 the truthfulness of the allegation as to the “grab bar behind the water closet,” as it is
12 unsure of whether “water closet” refers to a restroom or a toilet, and therefore denies
13 same.

14 16. In answering Paragraph 16 of the Complaint, no allegations are asserted
15 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
16 sufficient knowledge or information to form a belief as to truthfulness of the
17 allegations contained therein, and therefore denies same.

18 17. In answering Paragraph 17 of the Complaint, no allegations are asserted
19 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
20 sufficient knowledge or information to form a belief as to truthfulness of the
21 allegations contained therein, and therefore denies same. The Property is a shopping
22 center and the parking spaces are a common area available for use of patrons visiting
23 the multiple businesses located at the shopping center. KTGI denies that it owns,
24 controls, or maintains the parking lot, and therefore denies that it is responsible in any
25 way for parking space compliance with the ADA.

26 18. In answering Paragraph 18 of the Complaint, no allegations are asserted
27 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
28 sufficient knowledge or information to form a belief as to truthfulness of the

1 allegations contained therein, and therefore denies same. The Property is a shopping
2 center and the parking spaces are a common area available for use of patrons visiting
3 the multiple businesses located at the shopping center. KTGI denies that it owns,
4 controls, or maintains the parking lot, and therefore denies that it is responsible in any
5 way for parking space compliance with the ADA.

6 19. In answering Paragraph 19, KTGI is without sufficient knowledge or
7 information to form a belief as to truthfulness of the allegations contained therein as
8 to the parking spaces, curb ramps, and cross slopes, and therefore denies same. The
9 Property is a shopping center and the parking spaces, curb ramps, and cross slopes are
10 common areas available for use of patrons visiting the multiple businesses located at
11 the shopping center. KTGI denies that it owns, controls, or maintains the parking
12 spaces, curb ramps, and cross slopes and therefore denies that it is responsible in any
13 way for the compliance of same with the ADA.

14 20. In answering Paragraph 20 of the Complaint, KTGI is without sufficient
15 knowledge or information to form a belief as to the truthfulness of the allegations
16 contained therein and, therefore, denies the same.

17 21. In answering Paragraph 21 of the Complaint, KTGI is without sufficient
18 knowledge or information to form a belief as to the truthfulness of the allegations
19 contained therein and, therefore, denies the same.

20 22. In answering Paragraph 22 of the Complaint, KTGI is without sufficient
21 knowledge or information to form a belief as to the truthfulness of the allegations
22 contained therein and, therefore, denies the same.

23 23. In answering Paragraph 23, KTGI is without sufficient knowledge or
24 information to form a belief as to truthfulness of the allegations contained therein as
25 to the parking spaces, sidewalks, curb ramps, and cross slopes and therefore denies
26 same. The Property is a shopping center and the parking spaces, sidewalks, curb
27 ramps, and cross slopes are common areas available for use of patrons visiting the
28 multiple businesses located at the shopping center. KTGI denies that it owns,

1 controls, or maintains the parking spaces, sidewalks, curb ramps, and cross slopes and
2 therefore denies that it is responsible in any way for the compliance of same with the
3 ADA. KTGI is without sufficient knowledge and information to form a belief as to
4 the truthfulness of the allegation as to the round door knob, as the location of the door
5 knob is not specified, and therefore denies same. KTGI is without sufficient
6 knowledge and information to form a belief as to the truthfulness of the allegation as
7 to the sink, as the location of the sink is not specified, and therefore denies same.
8 KTGI is without sufficient knowledge and information to form a belief as to the
9 truthfulness of the allegation as to the hand dryer, as the location of the hand dryer
10 is not specified, and therefore denies same. KTGI is without sufficient knowledge
11 and information to form a belief as to the truthfulness of the allegation as to the towel
12 dispenser, as the location of the towel dispenser is not specified, and therefore denies
13 same. KTGI is without sufficient knowledge and information to form a belief as to
14 the truthfulness of the allegation as to the “grab bar behind the water closet,” as it is
15 unsure of whether “water closet” refers to a restroom or a toilet, and therefore denies
16 same.

17 24. In answering Paragraph 24, KTGI is without sufficient knowledge or
18 information to form a belief as to truthfulness of the allegations contained therein as
19 to the parking spaces, sidewalks, curb ramps, and cross slopes and therefore denies
20 same. The Property is a shopping center and the parking spaces, sidewalks, curb
21 ramps, and cross slopes are common areas available for use of patrons visiting the
22 multiple businesses located at the shopping center. KTGI denies that it owns,
23 controls, or maintains the parking spaces, sidewalks, curb ramps, and cross slopes and
24 therefore denies that it is responsible in any way for the compliance of same with the
25 ADA. KTGI is without sufficient knowledge and information to form a belief as to
26 the truthfulness of the allegation as to the round door knob, as the location of the door
27 knob is not specified, and therefore denies same. KTGI is without sufficient
28 knowledge and information to form a belief as to the truthfulness of the allegation as

1 to the sink, as the location of the sink is not specified, and therefore denies same.
 2 KTGI is without sufficient knowledge and information to form a belief as to the
 3 truthfulness of the allegation as to the hand dryer, as the location of the hand dryer
 4 is not specified, and therefore denies same. KTGI is without sufficient knowledge
 5 and information to form a belief as to the truthfulness of the allegation as to the towel
 6 dispenser, as the location of the towel dispenser is not specified, and therefore denies
 7 same. KTGI is without sufficient knowledge and information to form a belief as to
 8 the truthfulness of the allegation as to the “grab bar behind the water closet,” as it is
 9 unsure of whether “water closet” refers to a restroom or a toilet, and therefore denies
 10 same.

11 25. In answering Paragraph 25 of the Complaint, no allegations are asserted
 12 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
 13 sufficient knowledge or information to form a belief as to truthfulness of the
 14 allegations contained therein, and therefore denies same.

15 26. In answering Paragraph 26, KTGI is without sufficient knowledge or
 16 information to form a belief as to truthfulness of the allegations contained therein as
 17 to the parking spaces, sidewalks, curb ramps, and cross slopes and therefore denies
 18 same. The Property is a shopping center and the parking spaces, sidewalks, curb
 19 ramps, and cross slopes are common areas available for use of patrons visiting the
 20 multiple businesses located at the shopping center. KTGI denies that it owns,
 21 controls, or maintains the parking spaces, sidewalks, curb ramps, and cross slopes and
 22 therefore denies that it is responsible in any way for the compliance of same with the
 23 ADA. KTGI is without sufficient knowledge and information to form a belief as to
 24 the truthfulness of the allegation as to the round door knob, as the location of the door
 25 knob is not specified, and therefore denies same. KTGI is without sufficient
 26 knowledge and information to form a belief as to the truthfulness of the allegation as
 27 to the sink, as the location of the sink is not specified, and therefore denies same.
 28 KTGI is without sufficient knowledge and information to form a belief as to the

1 truthfulness of the allegation as to the hand dryer, as the location of the hand dryer
 2 is not specified, and therefore denies same. KTGI is without sufficient knowledge
 3 and information to form a belief as to the truthfulness of the allegation as to the towel
 4 dispenser, as the location of the towel dispenser is not specified, and therefore denies
 5 same. KTGI is without sufficient knowledge and information to form a belief as to
 6 the truthfulness of the allegation as to the “grab bar behind the water closet,” as it is
 7 unsure of whether “water closet” refers to a restroom or a toilet, and therefore denies
 8 same.

9 27. In answering Paragraph 27 of the Complaint, KTGI is without sufficient
 10 knowledge or information to form a belief as to the truthfulness of the allegations
 11 contained therein and, therefore, denies the same.

12 **FIRST CAUSE OF ACTION**

13 **(Violations of the Americans With Disabilities Act of 1990,**

14 **42 U.S.C. §1281 et seq.)**

15 28. In answering Paragraph 28 of the Complaint, no allegations are asserted
 16 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
 17 sufficient knowledge or information to form a belief as to truthfulness of the
 18 allegations contained therein, and therefore denies same.

19 29. Plaintiff merely recites sections of the ADA which require no response
 20 and the provisions of the ADA speak for themselves.

21 30. Plaintiff merely states legal conclusions which require no response and
 22 the provisions of the ADA speak for themselves. Further, in answering Paragraph 30,
 23 KTGI is without sufficient knowledge or information to form a belief as to
 24 truthfulness of the allegations contained therein as to the parking spaces, sidewalks,
 25 curb ramps, and cross slopes and therefore denies same. The Property is a shopping
 26 center and the parking spaces, sidewalks, curb ramps, and cross slopes are common
 27 areas available for use of patrons visiting the multiple businesses located at the
 28 shopping center. KTGI denies that it owns, controls, or maintains the parking spaces,

1 sidewalks, curb ramps, and cross slopes and therefore denies that it is responsible in
2 any way for the compliance of same with the ADA.

3 31. Plaintiff merely recites sections of the CFR which require no response
4 and the provisions of the CFR speak for themselves.

5 32. In answering Paragraph 32 of the Complaint, KTGI is without sufficient
6 knowledge or information to form a belief as to truthfulness of the allegations
7 contained therein as to the parking spaces, sidewalks, curb ramps, and cross slopes
8 and therefore denies same. The Property is a shopping center and the parking spaces,
9 sidewalks, curb ramps, and cross slopes are common areas available for use of
10 patrons visiting the multiple businesses located at the shopping center. KTGI denies
11 that it owns, controls, or maintains the parking spaces, sidewalks, curb ramps, and
12 cross slopes and therefore denies that it is responsible in any way for the compliance
13 of same with the ADA. KTGI is without sufficient knowledge and information to
14 form a belief as to the truthfulness of the allegation as to the round door knob, as the
15 location of the door knob is not specified, and therefore denies same. KTGI is
16 without sufficient knowledge and information to form a belief as to the truthfulness
17 of the allegation as to the sink, as the location of the sink is not specified, and
18 therefore denies same. KTGI is without sufficient knowledge and information to
19 form a belief as to the truthfulness of the allegation as to the hand dryer, as the
20 location of the hand dryer is not specified, and therefore denies same. KTGI is
21 without sufficient knowledge and information to form a belief as to the truthfulness
22 of the allegation as to the towel dispenser, as the location of the towel dispenser is not
23 specified, and therefore denies same. KTGI is without sufficient knowledge and
24 information to form a belief as to the truthfulness of the allegation as to the “grab bar
25 behind the water closet,” as it is unsure of whether “water closet” refers to a restroom
26 or a toilet, and therefore denies same.

27 33. In answering Paragraph 33 of the Complaint, KTGI is without sufficient
28 knowledge or information to form a belief as to the truthfulness of the allegations

1 contained therein and, therefore, denies the same.

2 **SECOND CAUSE OF ACTION**

3 **(Violation of the UCRA, California Civil Code §51 et seq.)**

4 34. In answering Paragraph 34 of the Complaint, no allegations are asserted
5 as to KTGI; however, if it is deemed that an allegation is asserted, KTGI is without
6 sufficient knowledge or information to form a belief as to truthfulness of the
7 allegations contained therein, and therefore denies same.

8 35. Plaintiff merely states legal conclusions which require no response and
9 the provisions of the UCRA speak for themselves. Further, in answering Paragraph
10 35 of the Complaint, KTGI is without sufficient knowledge or information to form
11 a belief as to truthfulness of the allegations contained therein as to the parking spaces,
12 sidewalks, curb ramps, and cross slopes and therefore denies same. The Property is
13 a shopping center and the parking spaces, sidewalks, curb ramps, and cross slopes are
14 common areas available for use of patrons visiting the multiple businesses located at
15 the shopping center. KTGI denies that it owns, controls, or maintains the parking
16 spaces, sidewalks, curb ramps, and cross slopes and therefore denies that it is
17 responsible in any way for the compliance of same with the ADA. KTGI is without
18 sufficient knowledge and information to form a belief as to the truthfulness of the
19 allegation as to the round door knob, as the location of the door knob is not specified,
20 and therefore denies same. KTGI is without sufficient knowledge and information
21 to form a belief as to the truthfulness of the allegation as to the sink, as the location
22 of the sink is not specified, and therefore denies same. KTGI is without sufficient
23 knowledge and information to form a belief as to the truthfulness of the allegation as
24 to the hand dryer, as the location of the hand dryer is not specified, and therefore
25 denies same. KTGI is without sufficient knowledge and information to form a belief
26 as to the truthfulness of the allegation as to the towel dispenser, as the location of the
27 towel dispenser is not specified, and therefore denies same. KTGI is without
28 sufficient knowledge and information to form a belief as to the truthfulness of the

1 allegation as to the “grab bar behind the water closet,” as it is unsure of whether
2 “water closet” refers to a restroom or a toilet, and therefore denies same.

3 36. Plaintiff merely states legal conclusions which require no response and
4 the provisions of the UCRA speak for themselves. Further, in answering Paragraph
5 36 of the Complaint, KTGI is without sufficient knowledge or information to form
6 a belief as to truthfulness of the allegations contained therein as to the parking spaces,
7 sidewalks, curb ramps, and cross slopes and therefore denies same. The Property is
8 a shopping center and the parking spaces, sidewalks, curb ramps, and cross slopes are
9 common areas available for use of patrons visiting the multiple businesses located at
10 the shopping center. KTGI denies that it owns, controls, or maintains the parking
11 spaces, sidewalks, curb ramps, and cross slopes and therefore denies that it is
12 responsible in any way for the compliance of same with the ADA. KTGI is without
13 sufficient knowledge and information to form a belief as to the truthfulness of the
14 allegation as to the round door knob, as the location of the door knob is not specified,
15 and therefore denies same. KTGI is without sufficient knowledge and information
16 to form a belief as to the truthfulness of the allegation as to the sink, as the location
17 of the sink is not specified, and therefore denies same. KTGI is without sufficient
18 knowledge and information to form a belief as to the truthfulness of the allegation as
19 to the hand dryer, as the location of the hand dryer is not specified, and therefore
20 denies same. KTGI is without sufficient knowledge and information to form a belief
21 as to the truthfulness of the allegation as to the towel dispenser, as the location of the
22 towel dispenser is not specified, and therefore denies same. KTGI is without
23 sufficient knowledge and information to form a belief as to the truthfulness of the
24 allegation as to the “grab bar behind the water closet,” as it is unsure of whether
25 “water closet” refers to a restroom or a toilet, and therefore denies same.

26 37. Plaintiff merely states legal conclusions which require no response and
27 the provisions of the UCRA speak for themselves. Further, in answering Paragraph
28 37 of the Complaint, KTGI is without sufficient knowledge or information to form

1 a belief as to truthfulness of the allegations contained therein as to the parking spaces,
 2 sidewalks, curb ramps, and cross slopes and therefore denies same. The Property is
 3 a shopping center and the parking spaces, sidewalks, curb ramps, and cross slopes are
 4 common areas available for use of patrons visiting the multiple businesses located at
 5 the shopping center. KTGI denies that it owns, controls, or maintains the parking
 6 spaces, sidewalks, curb ramps, and cross slopes and therefore denies that it is
 7 responsible in any way for the compliance of same with the ADA. KTGI is without
 8 sufficient knowledge and information to form a belief as to the truthfulness of the
 9 allegation as to the round door knob, as the location of the door knob is not specified,
 10 and therefore denies same. KTGI is without sufficient knowledge and information
 11 to form a belief as to the truthfulness of the allegation as to the sink, as the location
 12 of the sink is not specified, and therefore denies same. KTGI is without sufficient
 13 knowledge and information to form a belief as to the truthfulness of the allegation as
 14 to the hand dryer, as the location of the hand dryer is not specified, and therefore
 15 denies same. KTGI is without sufficient knowledge and information to form a belief
 16 as to the truthfulness of the allegation as to the towel dispenser, as the location of the
 17 towel dispenser is not specified, and therefore denies same. KTGI is without
 18 sufficient knowledge and information to form a belief as to the truthfulness of the
 19 allegation as to the "grab bar behind the water closet," as it is unsure of whether
 20 "water closet" refers to a restroom or a toilet, and therefore denies same. KTGI
 21 denies that it has, prior to being served with the Complaint, been put on actual or
 22 constructive notice that the Property is allegedly inaccessible to Plaintiff and denies
 23 that it has intentionally discriminated against Plaintiff.

24 **ANSWER TO ALL ALLEGATIONS**

25 38. All other allegations not specifically admitted are hereby denied.

26 **AFFIRMATIVE DEFENSES**

27 KTGI asserts the following affirmative defenses to Plaintiff's Complaint:

28 1. KTGI incorporates by reference those affirmative defenses enumerated

1 in the *Federal Rules of Civil Procedure* as if set forth fully herein. In the event
2 further investigations or discovery reveals the applicability of any such defenses,
3 KTGI further reserves the right to seek leave of Court to amend its answers and assert
4 same. Such defenses are herein incorporated by reference for the specific purpose of
5 not waiving the same.

6 2. As a separate defense, and in the alternative, KTGI alleges that
7 Plaintiff's Complaint fails to state a claim upon which relief may be granted against
8 KTGI.

9 3. As a separate and distinct affirmative defense, KTGI is informed and
10 believes, and thereon alleges, that Plaintiff's claims are moot.

11 4. As a separate and distinct affirmative defense, KTGI is informed and
12 believes, and thereon alleges, that Plaintiff's claims are barred by the applicable
13 statute of limitations.

14 5. As a separate and distinct affirmative defense, KTGI is informed and
15 believes, and thereon alleges, that the Court lacks supplemental jurisdiction over
16 Plaintiff's state law claim.

17 6. As a separate and distinct affirmative defense, KTGI is informed and
18 believes, and thereon alleges, that Plaintiff's claims are barred because, with respect
19 to any particular architectural element of the Property that departs from accessibility
20 guidelines, the Property has provided "equivalent facilitation" in the form of
21 alternative designs and technologies that provide substantially equivalent or greater
22 access to and usability of the Property.

23 7. As a separate and distinct affirmative defense, KTGI is informed and
24 believes, and thereon alleges, that Plaintiff's claims are barred because the claimed
25 violations are de minimis, and non-actionable because they do not materially impair
26 Plaintiff's use of the Property for an intended purpose.

27 8. As a separate and distinct affirmative defense, KTGI is informed and
28 believes, and thereon alleges, that Plaintiff's claims are barred because the barrier

1 removal(s) Plaintiff seeks are not “readily achievable,” or easily accomplishable and
2 able to be carried out without much difficulty or expense within the meaning of 42
3 U.S.C. §12181(9) and are not required by the ADA, the ADAAG, or California Title
4 24 Building Code requirements.

5 9. As a separate and distinct affirmative defense, KTGI is informed and
6 believes, and thereon alleges, that Plaintiff’s claims are barred because the
7 modifications Plaintiff seeks are not “alterations” within the meaning of the ADA or
8 Title 24 and/or they do not trigger an “alteration” legal standard, including because
9 the modifications sought will be disproportionate in cost or cost in excess of 20% of
10 the entire “alteration.”

11 10. As a separate and distinct affirmative defense, KTGI is informed and
12 believes, and thereon alleges, that KTGI has made good-faith efforts to comply with
13 the ADA and the UCRA.

14 11. As a separate and distinct affirmative defense, KTGI is informed and
15 believes, and thereon alleges, that Plaintiff has failed to mitigate his damages, if any.

16 12. As a separate and distinct affirmative defense, KTGI is informed and
17 believes, and thereon alleges, that Plaintiff’s claims are barred to the extent that they
18 interfere with KTGI’s compliance with laws and regulations that are equally
19 applicable to all persons.

20 13. As a separate and distinct affirmative defense, KTGI is informed and
21 believes, and thereon alleges, that the imposition of statutory minimum damages in
22 this matter would violate KTGI’s Eighth Amendment protection against excessive
23 fines in violation of the U.S. and California Constitutions.

24 14. As a separate and distinct affirmative defense, KTGI is informed and
25 believes, and thereon alleges, that the imposition of punitive damages in this matter
26 would violate KTGI’s right to due process of law in violation of the U.S. and
27 California Constitutions.

28 15. As a separate and distinct affirmative defense, KTGI is informed and

1 believes, and thereon alleges, that KTGI is not responsible for property that is not
2 within its possession, custody, or control.

3 16. As a separate and distinct affirmative defense, KTGI is informed and
4 believes, and thereon alleges, that any wrongful acts or deprivation of rights alleged
5 in the Complaint were legally caused by third parties other than KTGI, thus barring
6 or diminishing Plaintiff's recovery against KTGI. Additionally, KTGI would be
7 entitled to contribution and/or indemnification from such third parties.

8 17. As a separate and distinct affirmative defense, KTGI is informed and
9 believes, and thereon alleges, that the claims in the Complaint are barred by
10 Plaintiff's failure to properly exhaust the appropriate remedies and/or perform the
11 necessary conditions precedent.

12 18. As a separate and distinct affirmative defense, KTGI is informed and
13 believes, and thereon alleges, that Plaintiff's claims in the Complaint fail to state a
14 claim for injunctive and/or equitable relief.

15 19. As a separate and distinct affirmative defense, KTGI is informed and
16 believes, and thereon alleges, that its alleged acts were not arbitrary or intentional,
17 and/or such acts were in the furtherance of legitimate business interests and,
18 accordingly, Plaintiff's claims as set forth in the Complaint are barred.

19 20. As a separate and distinct affirmative defense, KTGI is informed and
20 believes, and thereon alleges, that its policies and/or practices bear a reasonable
21 relation to commercial objectives appropriate to an enterprise allegedly serving the
22 public and, accordingly, Plaintiff's claims as set forth in the Complaint are barred.

23 21. As a separate and distinct affirmative defense, KTGI is informed and
24 believes, and thereon alleges, that it had no duty to modify, alter, or repair already
25 existing structures and, accordingly, Plaintiff's claims as set forth in the Complaint
26 are barred.

27 22. As a separate and distinct affirmative defense, KTGI is informed and
28 believes, and thereon alleges, that it had no duty to provide a higher degree of care

1 for an individual with an alleged disability than for an individual who is not disabled
2 under the circumstances and, accordingly, Plaintiff's claims as set forth in the
3 Complaint are barred.

4 23. As a separate and distinct affirmative defense, KTGI is informed and
5 believes, and thereon alleges, that its alleged policies are facially neutral and are,
6 therefore, not actionable by Plaintiff.

7 24. As a separate and distinct affirmative defense, KTGI is informed and
8 believes, and thereon alleges, that there have been no alterations, structural repairs,
9 or additions made since the time-frame proscribed by law as to the areas of the
10 property at issue herein, and/or any such alleged alterations, structural repairs, or
11 additions were made to areas unrelated to Plaintiff's claims. Accordingly, Plaintiff's
12 claims as set forth in the Complaint are barred.

13 25. As a separate and distinct affirmative defense, KTGI is informed and
14 believes, and thereon alleges, that the requested modifications to its alleged policies,
15 practices, and procedures are so drastic as to require KTGI to significantly alter the
16 nature of the alleged business and, accordingly, Plaintiff's claims as set forth in the
17 Complaint are barred.

18 26. As a separate and distinct affirmative defense, KTGI is informed and
19 believes, and thereon alleges, that Plaintiff lacks standing and/or is not a member of
20 the class intended to be protected by the applicable laws and, accordingly, Plaintiff's
21 claims as set forth in the Complaint are barred.

22 27. As a separate and distinct affirmative defense, KTGI is informed and
23 believes, and thereon alleges, that Plaintiff's claims as set forth in the Complaint are
24 preempted by other federal and/or state laws.

25 28. As a separate and distinct affirmative defense, KTGI is informed and
26 believes, and thereon alleges, that its alleged actions and/or inaction us based on its
27 exercise of constitutionally-protected rights, under both the U.S. and California
28 Constitutions and, accordingly, Plaintiff's claims as set forth in the Complaint are

1 barred.

2 29. As a separate and distinct affirmative defense, KTGI is informed and
3 believes, and thereon alleges, that Plaintiff failed to suffer the requisite difficulty,
4 discomfort, or embarrassment as set forth in Mundy v. Pro-Thro Enterprises, 192 Cal.
5 App. 4th Supp. 1 (2011). Accordingly, Plaintiff's claims as set forth in the Complaint
6 must fail.

7 30. As a separate and distinct affirmative defense, KTGI reserves the right
8 to assert defenses under California Civil Code Section 55.56 if warranted by further
9 investigation.

10 31. As a separate and distinct affirmative defense, KTGI presently has
11 insufficient knowledge or information upon which to form a belief as to whether, as
12 yet unknown, affirmative defenses exist. KTGI reserves the right to assert additional
13 affirmative defenses in the event discovery indicates it would be appropriate to do so.

14 WHEREFORE, Defendant KTGI, having fully answered the Complaint of
15 Plaintiff herein, prays for judgment as follows:

16 A. For judgment in KTGI's favor, and against Plaintiff, and that Plaintiff
17 take nothing by way of his Complaint;

18 B. That KTGI be awarded its attorney's fees and costs incurred herein; and

19 C. For such other and further relief as the Court may deem just and proper.

20 **DEMAND FOR JURY TRIAL**

21 Defendant KTGI hereby requests a trial by jury.

22
23 DATED: September 27, 2018

Respectfully submitted,

PICK & BOYDSTON, LLP

24
25 By: /s/ James C. Sun
26 BRIAN D. BOYDSTON
27 JAMES C. SUN
28 Attorneys for Defendant Krua
Thai Group, Inc.